

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**JEFFREY M. DANIEL and
KIMBERLY D. DANIEL,**

PLAINTIFFS,

VS.

2:07-cv-640-WKW

**NATIONPOINT, FIRST FRANKLIN
FINANCIAL CORPORATION,
MERRILL LYNCH BANK & TRUST
COMPANY, and BLAKE BARSAMIAN,**

DEFENDANTS.

**PLAINTIFF’S RESPONSE TO DEFENDANT NATIONPOINT’S MOTION TO
QUASH SERVICE AND TO DISMISS FOR INSUFFICIENT SERVICE OF
PROCESS AND LACK OF PERSONAL JURISDICTION**

Come now the Plaintiffs, by and through counsel, and hereby respond to Defendant Nationpoint's Motion to Quash Service and to Dismiss for Insufficient Service of Process and Lack of Personal Jurisdiction (Doc. #8) as follows:

1. The Plaintiffs are not opposed to the Court granting the Motion to Dismiss Nationpoint from these proceedings. The Plaintiffs take this position based on the affirmations and documents provided by Defendants in support of their motion. Because this litigation has just been initiated, the Plaintiffs request that the Court dismiss Nationpoint **without prejudice** in the event that in the course of discovery it is determined that Nationpoint is a separate legal entity capable of being sued in its own name.

s/ Benjamin M. Bowden
Benjamin M. Bowden (BOW035)
ASB-1909-N43B
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CERTIFICATE OF SERVICE

I hereby certify that on August 7, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which shall send notification of such filing to the following counsel of record which includes:

Bradley B. Rounsaville
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s/ Benjamin M. Bowden
Of Counsel